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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,282	02/28/2002	Hans-Peter Wild	30051/38200	1154

4743 7590 12/15/2004

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EXAMINER

PARADISO, JOHN ROGER

ART UNIT PAPER NUMBER

3721

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/085,282	<b>Applicant(s)</b> WILD ET AL. <span style="float: right;">CR</span>	
	<b>Examiner</b> John R Paradiso	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/11/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The Non-Final Action mailed 2/11/2004 mistakenly contained only a duplicate version of the previous Action on the Merits. The present Action supercedes and replaces that action. The time period for response is re-started as of the mailing date of this present action. Examiner apologizes for any confusion.

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by KRAFT ET AL.

KRAFT ET AL substantially discloses the claimed invention. A feeder device (12) for feeding a drinking straw band (6,26) (KRAFT ET AL column 3:53-4:35 and figure 2) includes grooves (24); a cutting device (14) for severing the drinking straw band, a pressing device (16) for pressing a drinking straw (4) to a foil bag (2b). Suction devices are also disclosed to keep the straws in position (KRAFT ET AL column 4:36-56).

Regarding the "groove which in its height position is matched to the glue layer .. and whose height extension .. corresponds to at least a width of the glue layer" (Claim 1 lines 16-18),

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Examiner points out that the grooves (24) of KRAFT ET AL do not extend past the glue layer in either direction and are thus read on the claim. Additionally, Examiner notes that these grooves in KRAFT ET AL extend around the entire circumferential periphery of the feeder device.

Regarding claim 13, KRAFT ET AL discloses the cutter (14) extending into a groove (24) provided on the feeder device, thereby piercing the glue layer and separating the containers from one another.

***Response to Arguments***

4. Applicant's arguments filed 9/7/2004 and 6/21/2004 have been fully considered but they are not persuasive.

5. Applicant states on page 6 of his Response filed 6/21/2004 that "The Kraft reference disclose a star-shaped wheel that does not have any grooves at all."

However, as described above, the grooves (24) of KRAFT ET AL do not extend past the glue layer in either direction and are thus read on the claim. Additionally, Examiner notes that these grooves in KRAFT ET AL extend around the entire circumferential periphery of the feeder device.

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6. Applicant states on page 6 of his Response filed 6/21/2004 that "Kraft et al. does not disclose a method for piercing through ha glue layer using a groove .. formed on the feeder device.:

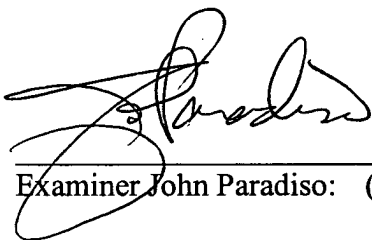
However, as described above, KRAFT ET AL discloses the cutter (14) extending into a groove (24) provided on the feeder device, thereby piercing the glue layer and separating the containers from one another.

### *Conclusion*

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

December 13, 2004

**Additional Phone Numbers:**

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (703) 872-9306

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)